

STATEMENT OF EMERGENCY
922 KAR 2:171E

This emergency repealer sunsets the former quality-based graduated early childhood rating system for child care, STARS for KIDS NOW. In accordance with KRS 13A.190(1)(a)2, this emergency repealer is necessary to comply with the purposes of the Child Care and Development Fund Block Grant, the state's major federal fund source for child care services, including the Child Care Assistance Program, specifically 42 U.S.C. 9857(a)(5) and (7), through its transition of the quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes to the Kentucky All STARS. The emergency repealer also preserves the health and safety of children in child care settings through its facilitation of enhanced quality programming and provider incentive in accordance with KRS 13A.190(1)(a)1. An ordinary administrative regulation would not allow the agency sufficient time to effect the transition and avoid federal noncompliance or disruption to service provision to children in child care settings. This emergency repealer will not be replaced by an ordinary administrative regulation, because this emergency repealer will accomplish the task of permanently repealing the administrative regulations, 922 KAR 2:170 and 922 KAR 2:210.

MATTHEW G. BEVIN, Governor
SCOTT W. BRINKMAN, Acting Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Emergency Repealer)

922 KAR 2:171E. Repeal of 922 KAR 2:170 and 922 KAR 2:210.

RELATES TO: KRS 199.011, 199.892-199.8996, 199.990, 45 C.F.R. Part 98, 42 U.S.C. 9857-9858q

STATUTORY AUTHORITY: KRS 194A.050(1), 199.8941(1), 199.8943(2)

EFFECTIVE: April 13, 2018

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth. KRS 199.8943(2) requires the Cabinet for Health and Family Services to promulgate an administrative regulation that implements a quality-based graduated child care rating system for public-funded child-care centers and certified family child-care homes; agency time frames for review of quality ratings; an appeals process under KRS Chapter 13B; and the ability of providers to request reevaluation for ratings. KRS 199.8941(1) requires the Early Childhood Advisory Council to develop a program of monetary incentives tied to participation in a quality rating system. This administrative regulation repeals 922 KAR 2:170 and 922 KAR 2:210 governing the STARS for KIDS NOW Program, which is being superseded by the Kentucky All STARS Program in accordance with 922 KAR 2:270.

Section 1. The following administrative regulations are hereby repealed:

(1) 922 KAR 2:170, STARS for KIDS NOW Program for type I licensed child-care centers;
and

(2) 922 KAR 2:210, STARS for KIDS NOW Program for type II licensed and certified family child-care homes.

ADRIA JOHNSON, Commissioner

SCOTT W. BRINKMAN, Acting Secretary

APPROVED BY AGENCY: April 3, 2018

FILED WITH LRC: April 13, 2018 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 21, 2018, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 14, 2018, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Elizabeth Caywood, phone (502) 564-3703, email Elizabeth.Caywood@ky.gov and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 922 KAR 2:170 and 922 KAR 2:210.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 922 KAR 2:170 and 922 KAR 2:210 in order to sunset the STARS for KIDS NOW Program concurrent with the establishment of the Kentucky All STARS Program, Kentucky's new quality rating and improvement system, in accordance with 922 KAR 2:270.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The only purpose of this administrative regulation is to repeal 922 KAR 2:170 and 922 KAR 2:210.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The only purpose of this administrative regulation is to repeal 922 KAR 2:170 and 922 KAR 2:210.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation is not an amendment.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is not an amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This administra-

tive regulation is not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation is not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky was awarded Race to the Top-Early Learning Challenge Grant funds in late 2013 that facilitated the development and implementation of the Kentucky All STARS Program from 2014 through present day. All publicly funded licensed child-care centers and certified family child care homes are transitioned from the nearly sunset STARS for KIDS NOW Program to the new Kentucky All STARS Program.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Publicly funded early care and education providers are mandated to participate in the quality-based graduated early childhood rating system in accordance with KRS 199.8943. For licensed child-care centers and certified family child-care homes, 922 KAR 2:270 will establish this program and supersede 922 KAR 2:170 and 922 KAR 2:210.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Child care providers can participate in the Kentucky All STARS Program by meeting licensure or certification requirements, minimum health and safety requirements to operate in the state. Providers choosing to participate at higher levels of the Kentucky All STARS Program will absorb the cost associated with complete application, environmental assessment, and the standards of quality. Federal Race to the Top-Early Learning Challenge Grant funds have been temporarily available to subsidize training materials, curriculum associated with high quality standards, and overall programmatic costs. Moving forward, providers participating in the Kentucky All STARS Program will have available technical assistance, support, and incentive awards under the program to offset the cost associated with providing high quality child care to Kentucky's children.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This repealer will benefit licensed child-care centers and certified family child-care homes by updating administrative regulations pertaining to Kentucky's child care quality rating and improvement system. The new Kentucky All STARS Program, including its incentive awards, has also been structured to support the state's compliance with the purposes of the Child Care and Development Fund Block Grant, the state's major federal funding source for child care services, including the Child Care Assistance Program, specifically 42 U.S.C. 9857(a)(5) and (7).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Funds previously directed to the STARS for KIDS NOW Program will be redirected to the new Kentucky ALL STARS Program. There will be no new costs or cost avoidance associated with this repealer.

(b) On a continuing basis: There will be no new ongoing costs or cost avoidance associated with this repealer.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no particular fund source associated with this repealer. Funds supporting the Kentucky All STARS Program are outlined in the attachments to 922 KAR 2:270.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding will not be necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation is applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

45 C.F.R. Part 98, 42 U.S.C. 9857-9858q

2. State compliance standards. KRS 194A.050(1), 199.8941(1), 199.8943(2)

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Part 98, 42 U.S.C. 9857-9858q

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The only purpose of this administrative regulation is to repeal 922 KAR 2:170 and 922 KAR 2:210.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The only purpose of this administrative regulation is to repeal 922 KAR 2:170 and 922 KAR 2:210.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 199.8941(1), 199.8943(2), 45 C.F.R. Part 98, 42 U.S.C. 9857-9858q

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This repealer will generate no revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This repealer will generate no revenue.

(c) How much will it cost to administer this program for the first year? This repealer creates no new cost in the initial year.

(d) How much will it cost to administer this program for subsequent years? This repealer creates no new cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: